

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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RAYMOND MASCARENAS,

Petitioner,

v.

GREG SMITH, *et al.*,

Respondents.

Case No. 3:14-cv-00054-MMD-VPC

ORDER

This case is a petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254, by Raymond Mascarenas, a Nevada prisoner serving a sentence of life in prison with the possibility of parole after ten years, on a sexual assault conviction following a jury trial in Nevada's Second Judicial District Court. Mascarenas' habeas petition asserts six grounds for relief. See Petition for Writ of Habeas Corpus. (Dkt. no. 8.)

Respondents filed a motion to dismiss on February 17, 2015. (Dkt. no. 19.) Mascarenas has filed an opposition to that motion (dkt. no. 24), and respondents have filed a reply (dkt. no. 25). Respondents argue in the motion to dismiss that Mascarenas has not exhausted in state court the claims he asserts as Grounds 1 and 3 in his habeas petition in this case. Respondents also argue that Grounds 1 and 3 are not cognizable in this federal habeas corpus action.

The Court finds that the record provided by respondents (see Exhibits, dkt. nos. 20-22) is insufficient for the Court to determine whether Mascarenas has exhausted Grounds 1 and 3 in state court. Respondents have not provided the Court with the

1 briefing filed by the parties in the Nevada Supreme Court on Mascarenas' direct
2 appeal, nor have respondents provided the Court with the briefing filed by the parties in
3 the Nevada Supreme Court on the appeal in Mascarenas' state post-conviction habeas
4 corpus action. The Court will order respondents to supplement the record to provide this
5 Court with those materials. See Rule 7 of the Rules Governing Section 2254 Cases in
6 the United States District Courts.

7 It is therefore ordered that respondents shall, within twenty (20) days from the
8 date of this order, supplement the record by filing, as exhibits, all the briefing filed by the
9 parties in the Nevada Supreme Court on Mascarenas' direct appeal, and all the briefing
10 filed by the parties in the Nevada Supreme Court on the appeal in Mascarenas' state
11 post-conviction habeas corpus action. Respondents should number the new exhibits
12 starting where the numbering of the exhibits they have already filed leaves off (the new
13 exhibits should begin with Exhibit 40).

14 DATED THIS 26th day of May 2015.

A handwritten signature in blue ink, appearing to read 'Miranda M. Du', is written over a horizontal line.

MIRANDA M. DU
UNITED STATES DISTRICT JUDGE